

Application No.: 10/533,398  
Amdt dated: May 7, 2007  
Reply to Office action of March 6, 2007

### **REMARKS**

This amendment is in response to the Office action mailed on March 6, 2007. Claims 29-38 are canceled without prejudice and/or disclaimer. Claims 1-21 and 39-43 are withdrawn. Claims 22 and 48-49 have been amended. Claims 1-28 and 39-49 are pending in the application.

On page 2 of the action, claims 22-28 and 44-49 are rejected under 35 U.S.C. 102(b) as being anticipated by Hart et al. (US 6,139,555). Applicant respectfully traverses the rejection. Claim 22 as amended recites that a sliding member is a uniform rectangular solid and is operably connected within the elongate shaft to advance the securing member of a staple-clip over the first and the second tissue-engaging members of the staple-clip after closure of the jaws. In reference to the sliding member provided in claim 22, the action indicates "(Fig 1 Item 56)". Hart et al. does describe in col. 9, lines 29-38, that when "supplied with a plurality of clips 24 the second actuating mechanism 56 advances the proximal most clip 24 distally which in turn advances the plurality of clips 24 such that the distal most clip 24 is advanced or moved forwardly into the guide slots 38 of the jaw members 30. In a preferred embodiment, the second actuating mechanism 56 includes an elongated push rod 58 which extends substantially coaxially through the inner member 32 and contacts at least one clip 24 at its base or distal end." However, Hart et al. does not describe a sliding member that is a uniform rectangular solid as provided in claim 22. Thus, Hart et al. cannot anticipate claim 22.

Since claims 23-28 and 44-47 depend from an associated independent claim 22 and thus incorporate the features recited in the corresponding claim and contain additional limitations that, when considered as a whole are patentably distinguishable over the references of record, claims 23-28 and 44-47 are believed to be patentable.

Independent claim 48 as amended recites that a sliding member is a uniform rectangular solid being a uniform rectangular solid having a height and a width less than

the height, the sliding member is operably connected within the elongate shaft to advance the securing member of a staple-clip over the first and the second tissue-engaging members of the staple-clip after closure of the jaws. In reference to the sliding member provided in claim 48, the action on page 5 indicates "(Fig 1 Item 56)". As noted above, Hart et al. does describe a second actuating mechanism 56 that includes an elongated push rod 58 which extends substantially coaxially through the inner member 32 and contacts at least one clip 24 at its base or distal end. However, Hart et al. does not describe a sliding member that is a uniform rectangular solid having a height and a width less than the height as provided in claim 48. Thus, Hart et al. cannot anticipate claim 48.

Since claim 49 depends from independent claim 48 and thus incorporate the features recited in the corresponding claim and contain additional limitations that, when considered as a whole are patentably distinguishable over the references of record, claim 49 is believed to be patentable.

Also, claim 49 recites that the first jaw has a height and a width larger than the height of the first jaw, the height of the first jaw being less than the height of the sliding member and the width of the first jaw being greater than the width of the sliding member. Hart et al. does not describe such a first jaw and sliding member as provided in claim 49 and thus Hart et al. cannot anticipate claim 49.

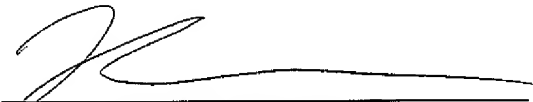
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### **Conclusion**

In view of the foregoing remarks, it is respectfully submitted that this application is in condition for allowance. Accordingly, reconsideration of the application and allowance of claims 1-28 and 39-49 are respectfully requested. If the Examiner should have any remaining questions or objections, a telephone interview to discuss and resolve these issues is respectfully requested.

Sincerely,

APPLIED MEDICAL RESOURCES

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